

The defendant, previously sentenced by this court to a lengthy term of imprisonment, has filed a pro se pleading entitled “Motion to Correct Clerical Error Pursuant to F. R. Crim. P. 36.” He alleges that in the written judgment sentencing him in 1999, the court made the following recommendation to the Bureau of Prisons: “FCI, Beckley, W.V. and consideration for residential substance abuse treatment.” The defendant requests that the court correct this passage to substitute the word “placement” in lieu of the word “consideration.” He further avers that he has recently been denied placement in the BOP’s Residential Drug Abuse Program (“RDAP”) and he believes that the language of the judgment negatively affected that decision.

While the BOP considers the recommendation of the sentencing judge in its decision for placement in any drug abuse education course,<sup>1</sup> it is the BOP that determines whether to admit inmates to RDAP.<sup>2</sup> Many other factors weight in that decision. In any event, the court's language in the judgment in question cannot be construed other than as a recommendation for RDAP. No amendment of the judgment is required.

I do note that regrettably many federal inmates who need drug treatment are delayed or denied program services because of the BOP's lack of resources.<sup>3</sup> In 2012, only 14,464 inmates were able to participate nationwide in RDAP,<sup>4</sup> even though there are more than 200,000 federal prisoners.

For the reasons stated, the motion (ECF No. 214) is DENIED.

It is so **ORDERED**.

ENTER: February 24, 2014

/s/ James P. Jones  
United States District Judge

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<sup>1</sup> 28 C.F.R. § 550.51(b)(iii) (2013).

<sup>2</sup> 28 C.F.R. § 550.53(e) (2013).

<sup>3</sup> U.S. Gov't Accountability Office, GAO-12-743, *Bureau of Prisons: Growing Inmate Crowding Negatively Affects Inmates, Staff and Infrastructure* 69-70 (2012).

<sup>4</sup> Fed. Bureau of Prisons, *Report to the Judiciary Committee, United States Congress*, attachment II (Dec. 2012).